

Notice of Allowability

Application No.

10/634,289

Examiner

Evelyn Huang

Applicant(s)

BUNKER ET AL.

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3-24-2005.
2. ☒ The allowed claim(s) is/are 1,2 and 4-12.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Purchase on 6-1-2005. During the interview, the examiner suggested deleting the isoquinoline compound in the proviso since it did not have antecedent basis in the azaisoquinoline compound of formula I in the amended claim 1.

The application has been amended as follows:

Page 9 of the amendment filed on 3-24-2005, last three lines, delete 'and wherein the compound named.....is excluded'.

REASONS FOR ALLOWANCE

2. The following is an examiner's statement of reasons for allowance:

Claims 1, 2, 4-12 are allowed.

The rejection for Claims 1, 2, 4, 9 under 35 U.S.C. 102(b) as being anticipated by Hadley et al.(6245778) is withdrawn in view of the amendment of Q, thereby excluding the species compounds of Hadley, wherein Q is C(O) NR6, R1 is substituted phenyl, Y is CH2 and R2 is alkyl.

The rejection for Claims 1, 2, 9 under 35 U.S.C. 102(b) as being anticipated by Ohno et al. (5367078) is withdrawn in view of the amendment of Q, thereby excluding the example compounds of Ohno, wherein R1 is optionally substituted phenyl or heteroaryl, R3 is OH (which tautomerize to oxo), Q is oxadiazolyl, Y is CH2, and R2 is phenylalkyl.

The 112 first paragraph enablement rejection for Claims 1, 2, 4-7, 9, 11 is withdrawn upon reconsideration in view of the amendment and Applicant's remarks.

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Hadley et al (6245778) or Ohno et al (5367078) fails to teach or suggest the instant alkynyl as Q. Motivation to replace Hadley's amide or Ohno's oxadiazolyl with the instant alkynyl is lacking.

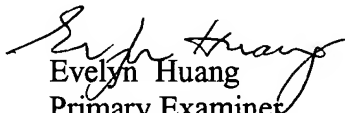
Bunker et al. (US 2004/0038959) has the same priority date as the instant and is therefore not prior art. Bunker's compound has a CH, whereas the instant has a C(O), CH₂ or CHR₂ as Y. Absent is the motivation to modify Bunker's compound to arrive at the instant invention.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evelyn Huang whose telephone number is 571-272-0686. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Evelyn Huang
Primary Examiner
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